IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF NORTH CAROLINA CHARLOTTE DIVISION CASE NO. 3:23-CV-647-RJC-DCK

CRAIG MESICK and JOYCE MESICK,)
Plaintiffs,) ORDER
v.)
NORTH CAROLINA STATE BOARD OF EDUCATION, et al.,))
Defendants.)))

THIS MATTER IS BEFORE THE COURT on *pro se* Plaintiffs' "Motion for Documents and Motion to Extend Deadline" (Document No. 69). This motion has been referred to the undersigned Magistrate Judge pursuant to 28 U.S.C. § 636(b), and immediate review is appropriate. The undersigned will grant the motion with modification.

As previously noted by the undersigned, Plaintiffs' responses to the pending motions to dismiss (Document Nos. 57 and 60) were due by July 29-30, 2024. (Document No. 66) (citing LCvR 7.1(e)). In accordance with <u>Roseboro v. Garrison</u> 528 F.2d 309 (4th Cir. 1975), the Court issued an Order on August 1, 2023, advising Plaintiffs, who are proceeding without counsel, of the right to respond to Defendants' motions to dismiss. (Document No. 63); <u>see also</u> (Document Nos. 30, 37, 46). Plaintiffs received the Court's Order (Document No. 63) on August 5, 2024. <u>See</u> (Document No. 64). Nevertheless, Plaintiffs failed to respond to the pending motions, or to seek an extension of time to do so, by the extended deadline of August 16, 2024.

On August 19, 2024, Plaintiffs filed a "Motion For Extension Of Time To Respond To Defendant's Motion To Dismiss" (Document No. 65). Plaintiffs specifically requested additional

time to respond to Document Nos. 57 and 60, but made no mention of needing the copies of those documents. (Document No. 65).

On August 21, 2024, the undersigned granted Plaintiffs' "Motion For Extension Of Time..." (Document No. 65) with modification. (Document No. 66). Plaintiffs were directed to "file a response to the pending motions to dismiss (Document Nos. 57 and 60) on or before **September 10, 2024**." <u>Id.</u> Plaintiffs received the Court's Order (Document No. 66) on August 28, 2024. (Document Nos. 67 and 68).

Now pending before the Court is Plaintiffs' "Motion for Documents and Motion to Extend Deadline" (Document No. 69) filed on September 12, 2024, two (2) days *after* Plaintiffs' current deadline to respond to the pending motions to dismiss. For the first time, Plaintiffs suggest they do not have "access to documents 57 and 60, which are essential for preparing an appropriate response to the pending Motion to Dismiss." (Document No. 69, p. 1). Plaintiffs now seek an extension to October 10, 2024. <u>Id.</u>

The undersigned is not persuaded that Plaintiffs did not receive copies of the pending motions and/or were unable to request the necessary documents in time to meet the current deadline. Although Plaintiffs brought this action almost one (1) year ago in this Court, it appears that they are attempting to keep this action from moving forward. Plaintiffs have repeatedly failed to abide by this Court's Orders and deadlines. As such, Plaintiffs are respectfully advised that if their dilatory conduct continues, the Court may dismiss this case. See Fed.R.Civ.P. 41(b)

Despite the foregoing observations, the undersigned will allow Plaintiffs one (1) more extension of time.

IT IS, THEREFORE, ORDERED that *pro se* Plaintiffs' "Motion for Documents and Motion to Extend Deadline" (Document No. 69) is **GRANTED with modification**. Plaintiffs

shall file a response to the pending motions to dismiss (Document Nos. 57 and 60) on or before **September 27, 2024**. Failure to file timely and persuasive responses will likely lead to the dismissal of this lawsuit.

IT IS FURTHER ORDERED that the Clerk of Court shall provide Plaintiffs with copies of Document Nos. 57, 58, 60, 61, 63, and 66.

The Clerk of Court is directed to send a copy of this Order and the documents identified above to *pro se* Plaintiffs by certified U.S. Mail, return receipt requested.

SO ORDERED.

Signed: September 13, 2024

David C. Keesler

United States Magistrate Judge